

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

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ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

v.

O'CONNOR PACKAGING AND  
DISTRIBUTION, INC. and  
MICHAEL O'CONNOR, an individual,

Defendants.

\*\*\*\*\*

Civil Action No. 4:05-CV-04308

Honorable Ewing Werlein, Jr.

**CONSENT JUDGMENT**

PLAINTIFF, the Secretary of Labor, United States Department of Labor, has filed her complaint and DEFENDANT O'Connor Packaging & Distribution, Inc. and DEFENDANT Michael O'Connor, Individually and as Corporate Officer (hereinafter collectively referred to as "Defendants"), without admitting they have violated any provision of the Fair Labor Standards Act of 1938, have agreed to the entry of judgment without contest. It is, therefore, upon motion of the Plaintiff and for cause shown,

ORDERED, ADJUDGED and DECREED that Defendants, their officers, agents, servants, employees and all persons in active concert or participation with them be and hereby are permanently enjoined and restrained from violating the provisions of sections 6, 7, and 15(a)(2) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201, et seq. (hereinafter the "Act"), in any of the following manners:

Defendants shall not, contrary to sections 6 and 15(a)(2) of the Act, 29 U.S.C. §§ 206 and 215(a)(2), pay any employee who is engaged in commerce or in the production of goods for commerce, or who is employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at a rate less than the minimum hourly rates required by Section 6 of the Act.

Defendants shall not, contrary to sections 7 and 15(a)(2) of the Act, 29 U.S.C. §§ 207 and 215(a)(2), employ any employee in commerce or in the production of goods for commerce, or in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for workweeks longer than forty (40) hours, unless the employee receives compensation for his or her employment in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which he or she is employed.

It is further ORDERED, ADJUDGED and DECREED that the Defendants be enjoined and restrained from withholding minimum wages and overtime compensation in the total amount of \$85,000.00, plus interest computed at the rate of 3%, which the Court finds is due under the Act to Defendants' employees named in Exhibit "A" for the period from January 4, 2003 through December 25, 2004. To comply with the provisions of this Judgment, Defendants shall deliver to Plaintiff 36 checks payable to "Wage and Hour-Labor" mailed to: U.S. DOL Wage and Hour Division, ATTN: Teronika Gaines, 525 S. Griffin Street, Suite 800, Dallas, Texas 75202, in the amounts and the times set forth below:

Payment of the \$85,000.00 plus interest shall be made in a total of 36 consecutive monthly installments in the amount of \$2,471.90. The first installment is due and payable on March 1, 2009, and the remaining installments shall be due and payable on or before the same day of each

succeeding month thereafter until all installments have been paid.

From the proceeds of said payments, Plaintiff shall make appropriate distribution to the employees named herein or to their estate if necessary, in the respective amounts due said employees, less income tax and social security deductions. In the event that any of said money cannot be distributed and paid over by Plaintiff within the period of three (3) years after payment in full pursuant to this Judgment because of inability to locate the proper persons or because of their refusal to accept such sums, the money shall be deposited with the Treasurer of the United States.

It is further ORDERED that in the event of default by the Defendants in the payment of the monthly installments, the total balance remaining unpaid shall then become due and payable and interest shall be assessed against such remaining unpaid balance at the rate provided by 28 U.S.C. § 1961 from the date of this Judgment until the total amount is paid in full.

It is further ORDERED that the right of any and all of Defendants' employees not specifically named in Exhibit A attached hereto to bring an action under Section 16(b) of the Fair Labor Standards Act, 29 U.S.C. § 216(b), shall be restored and that neither the filing of this action nor the entry of this Judgment shall be a bar to such action and that the statute of limitations in such action shall be deemed tolled during the pendency of this action. The parties agree that the instant action is deemed to cover the period from January 4, 2003 through December 25, 2004.

The Parties therefore agree that the filing of this action and provisions of this Judgment shall not be interpreted so as to prejudice or preclude the legal rights of the Secretary of Labor or of any employees of Defendants in any action filed by the Secretary of Labor or by such employee under the Act covering violations alleged to have occurred after December 25, 2004.

It is further ORDERED that each Party agrees to bear his or her own attorneys' fees, costs and other expenses incurred by such Party in connection with any stage of this proceeding, including, but not limited to, attorneys' fees which may be available under the Equal Access to Justice Act, as amended.

Dated this the 11<sup>TH</sup> day of November, 2008.

  
EWING WERLEIN, JR.  
UNITED STATES DISTRICT COURT JUDGE

APPROVED AND AGREED TO:

By:




MICHAEL O'CONNOR

Individually and as Corporate Officer

Signed on this the 29<sup>th</sup> day of  
October, 2008.

By:



WILLIAM J. DYER, Esquire

State Bar No. 06321100

For Defendant O'Connor Packaging &  
Distribution, Inc.

Signed on this the 29<sup>th</sup> day of  
October, 2008.

William J. Dyer, Esq.  
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Houston, Texas 77056  
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Attorney for Defendants.

RSOL No. 05-01397

GREGORY F. JACOB

Solicitor of Labor

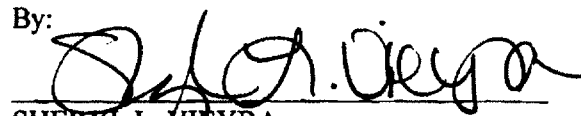
JANICE L. HOLMES

Acting Regional Solicitor

MARGARET TERRY CRANFORD

Counsel for Wage and Hour

By:



SHERYL L. VIEYRA

Senior Trial Attorney

Texas State Bar No. 24008193

Signed on this the 31<sup>st</sup> day of  
October, 2008.

U.S. Department of Labor  
Office of the Solicitor  
525 S. Griffin Street, Suite 501  
Dallas, Texas 75202  
Telephone: (972) 850-3100  
Facsimile: (972) 850-3101

Attorneys for Plaintiff.

**EXHIBIT A**

1. Alejandro, Carlos G
2. Alejandro, Jorge
3. Alejandro, Lourdes
4. Alejandro, Monse
5. Aparisio, Nabor Cortes
6. Ayala, Christina D.
7. Ayala, Miguel Angel
8. Baires, Oneyda L.
9. Beltran, Nome
10. Blanquel, Jenny
11. Campos, Mirta
12. Cardona, Santos
13. Castro, Veronica
14. Chinos, Jose Garcia
15. Chupin, Maria Garcia
16. Cristobal, Francisco C.
17. Cruz, Claudia
18. Cuevasanto, Silvana
19. Dayhoff, Charles E.
20. DeJesus, Alejandro Jiminez
21. Delcastrillo, Matrinidad
22. Diaz, Jose J.
23. Diaz, Silvia
24. Dominguez, Filiberto R.
25. Duran Reina E.
26. Echeverria, Antonia E.
27. Flores, Heraclio
28. Flores, Jesus
29. Flores, Rodolfo
30. Galvan-Borjas, Olga
31. Garcia, Felecitos
32. Garcia, Nael
33. Gaarcia, Rafael Lopez
34. Gaspar, Margarita
35. Gonzales, Alberto
36. Gonzalez, Antonia
37. Gonzalez, Claudia Marisol
38. Gonzalez, Iris Moreno
39. Gonzalez, Sandra E.
40. Hernandez, Dalia Cruz
41. Hernandez, Olga Lydia
42. Herrera, Maria B.
43. Jimenez, Alejandro

44. Jimenez, Myra Medina
45. Lazaro, Yesica I.
46. Lopez, Claudia T.
47. Martin, Dana
48. Martinez, Alberto
49. Martinez, Alfonso
50. Martinez, Patricia
51. Martinez, Santiago L.
52. Medina, Luz Elena
53. Mendez, Julio
54. Monzon, Veracruz
55. Morales, Ezequiel
56. Morales, Gloria M.
57. Morales, Raul
58. Moreno, Claudia Rodriguez
59. Moreno, Cynthia
60. Ortuno, Reyna
61. Pacheco, Saul Pineda
62. Ponciano, Yadira
63. Quiroz, Eva
64. Rocha, Carmen D.
65. Rocha, Mario
66. Rodriquez, Ayrelío Yanez
67. Rodriguez, Rocio Del Carmen
68. Rojas, Javier, J.
69. Roman, Cindy
70. Ruiz, Mario Enso
71. Ruiz, Orguidia L.
72. Ruiz, Wilfredo E.
73. Saldivar, Jose Luis
74. Santos, Cartona
75. Saucedo, Lillian
76. Silva, Jose De Jesus
77. Solano, Amado Hernandez
78. Solano, Juan C.
79. Solorazano, Jose M. Pachico
80. Torres, Jorge
81. Torres, Jose Cesar
82. Torrez, Kristal M.
83. Torrez, Luz
84. Torrez, Simon A.
85. Trejo, Cecilia Belanares
86. Trijo, Miriam
87. Trevino, Fernando
88. Vargas, Minerva
89. Vasquez, Fabiola

90. Verdin, Nancy
91. Yanez, Filemon Rodriguez
92. Yanez, Gustavo
93. Yanez, Vincete Rodriguez
94. Young, Desmond L.
95. Zelaya, Geovanny